

EXHIBIT 6A

Witness: James Starkey

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

CHARLES SEWARD,)
Individually and on Behalf)
of All Others Similarly) 08 CIV 3976 (KMK)
Situated,)
Plaintiff,) ECF CASE
vs.)
INTERNATIONAL BUSINESS)
MACHINES CORPORATION,)
D/B/A IBM CORP.,)
Defendant.)

Videotaped deposition of JAMES STARKEY,
taken on behalf of the Defendant, pursuant to the
stipulations contained herein, in accordance with the
Federal Rules of Civil Procedure, before Thomas R.
Brezina, Certified Court Reporter, at 1420 Peachtree
Street, Atlanta, Georgia, on the 24th day of October,
2008, commencing at the hour of 11:45 a.m.

* * *

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Witness: James Starkey

2 (Pages 2 to 5)

		Page 4
1	INDEX TO EXHIBITS	
2	Defendant's Marked/First	
	Exhibit Number Description Identified	
3	D9 IBM document entitled 85	
4	"You and IBM - United	
5	States Additional	
6	Compensation"	
D10	2005 PBC for James 120	
	H. Starkey	
7	D11 Work History Detail 127	
8	Report for James Starkey	
9	E-mail dtd June 17, 131	
10	2008, from Steven	
11	Coy to 7000	
D13	Remote Call Monitoring 133	
	Evaluation dtd 6/6/2008	
12	D14 One-page note of Edwin 135	
13	Lewis dtd February 17, 2006 re: Jim Starkey	
14	D15 One-page note of Edwin 136	
15	Lewis dtd February 22, 2006, re: Jim Starkey	
16	D16 E-mails dtd 06/26/2008 138	
17	between Jim Starkey and Steven Coy	
18	D17 E-mail dtd 11/28/2007 140	
19	from Jim Starkey to jhsv1@aol.com	
20	D18 E-mail dtd 03/26/2008 143	
21	from Jim Starkey to Debbie & Bob White	
22	D19 E-mail dtd 06/09/2008 144	
23	from Jim Starkey to Starkey_T@bellsouth.net	
24	INDEX TO EXHIBITS	
25		
		Page 3
1	INDEX TO EXAMINATIONS	
2	Page	
3	Examination by Mr. Ray 7	
4	Examination by Mr. Zouras 151	
5	Further Examination by Mr. Ray 156	
		Page 5
7	INDEX TO EXHIBITS	
8	Defendant's Marked/First	
	Exhibit Number Description Identified	
9	D1 Consent to Join 10	
10	Collective Action of	
	James Starkey dtd	
11	6/13/08	
12	D2 Complaint 11	
13	D3 E-mail from George 63	
	to Team (undated)	
14	D4 IBM Business Conduct 72	
15	Guidelines dtd	
	December 18, 2007	
16	D5 IBM Course Booklet 76	
17	Business Conduct	
	Guidelines	
18	D6 Series of computer- 77	
19	generated documents	
	regarding James Starkey	
20	dtd June 19, 2008	
21	D7 eTOTALS Time Recording 82	
	System instructions	
22	D8 IBM document entitled 83	
23	"About Your Job" dtd	
	September 2007	
24		
25		

Witness: James Starkey

3 (Pages 6 to 9)

Page 6	Page 8
<p>1 APPEARANCES OF COUNSEL:</p> <p>2 On behalf of the Plaintiff:</p> <p>3 JAMES B. ZOURAS Attorney at Law 4 Stephan Zouras, LLP 205 North Michigan Avenue 5 Suite 2360 Chicago, Illinois 60601 6 (312) 233-1550 fax: (312) 233-1560 7 jzouras@stephanzouras.com 8</p> <p>9 On behalf of the Defendant:</p> <p>10 MATTHEW W. RAY Attorney at Law 11 Jones Day 2727 North Harwood Street 12 Dallas, Texas 75201 (214) 220-3939 13 fax: (214) 969-5100 mvr@jonesday.com 14 15 16 17 --- 18 19</p> <p>20 Videographer: Mr. Chris Jordan Legal Video Services, Inc. 21 3455 Peachtree Road, Suite 500 Atlanta, Georgia 30326 22 (770) 640-5050 23 24 25</p>	<p>1 A No. 2 Q As I mentioned, I'll be asking you 3 questions today, primarily about your work at IBM, and 4 you'll be giving me answers to those question. If you 5 could answer verbally, yes or no, as opposed to 6 nodding your head -- 7 A Okay. 8 Q -- it helps the court reporter. 9 A Yes. 10 Q And if you -- if I ask you a question today 11 that you don't understand, will you let me know? 12 A Yes. 13 Q And if I -- if you don't ask me to rephrase 14 it, I'll assume you understood my question. 15 A Okay. 16 Q Fair? Fair enough? 17 A Yes. 18 Q If you need a break today at any time, Mr. 19 Starkey, just let me know. 20 A Okay. 21 Q You can take a break whenever you need one. 22 A All right. 23 Q Okay? Are you on any medications today, 24 Mr. Starkey, that would impact your ability to respond 25 truthfully to my questions?</p>
<p>1 THE VIDEOGRAPHER: On video. 2 JAMES STARKEY 3 having been first duly sworn, was examined 4 and testified as follows: 5 EXAMINATION 6 BY MR. RAY: 7 Q Can you state your full name for the 8 record, please? 9 A James Harry Starkey. 10 Q Have you ever been deposed before, Mr. 11 Starkey? 12 A Deposed? 13 Q Yes. This is a deposition. 14 A Oh. 15 Q I assume you have not been deposed before 16 today. Do you understand that I'll be asking you 17 questions and you will be giving answers? 18 A Uh-huh. 19 Q You understand that you're under oath? 20 A Yes. I just did that. 21 Q Have you ever testified under oath before, 22 Mr. Starkey, like in a courtroom, for example? 23 A No. 24 Q Any kind of hearing where you were asked to 25 testify as a witness?</p>	<p>1 A No. 2 Q What is your date of birth? 3 A February 14, 1956. 4 Q And what is your current address? 5 A 2525 Hendry -- H-E-N-D-R-Y -- Court, and 6 that's in Conyers, Georgia. 7 Q How long have you been at that address? 8 A Six years. 9 Q Have you ever been known by any other 10 names? 11 A No. 12 Q Can you briefly describe your educational 13 background? 14 A I guess I have an associate's degree and 15 then quite a few classes after that, but my degree 16 would probably still be considered an associate's. 17 Q Associate's degree from what college? 18 A Springfield Technical Community College in 19 Springfield, Massachusetts. 20 Q Are you married, Mr. Starkey? 21 A Yes, sir. 22 Q How long have you been married? 23 A Four years. 24 Q Any children? 25 A Yes.</p>

Witness: James Starkey

4 (Pages 10 to 13)

	Page 10	Page 12
1	Q How many?	1 remember who it was.
2	A Two.	2 Q Did they send you the link that you have
3	Q What are their ages?	3 been referring to?
4	A Twenty-seven and 25.	4 A Yes. Yes.
5	Q Do you know what a declaration or an	5 Q And then did you access the link to the Web
6	affidavit is?	6 site?
7	A Not exactly.	7 A Yes.
8	Q Do you know whether you've signed a	8 Q And was the Exhibit 1 there, that form
9	declaration or an affidavit in this case?	9 that's Exhibit 1, the first document I showed you --
10	A As far as this, I haven't signed anything	10 A Uh-huh.
11	that I know of.	11 Q -- was that actually on the Web site?
12	MR. RAY: One wasn't produced for him, and	12 A Yes. It was something I believe you
13	you produced some for others. I just didn't know	13 printed out, because -- and sent back, because there
14	if there was one out there. Okay.	14 -- you couldn't sign it on-line to do it.
15	(Thereupon, marked for identification,	15 Q So you printed it, signed it, and send it
16	Defendant's Exhibit D1.)	16 in; is that right?
17	BY MR. RAY:	17 A Yes. Yes, sir.
18	Q I'm going to show you what has been marked	18 Q All right. Let's -- we'll come back to
19	as Exhibit 1, Mr. Starkey, and ask you if you	19 those exhibits in a little bit, but let's talk a
20	recognize that document?	20 little bit about your history with IBM.
21	A Oh, yes. This is off a Web site.	21 A Okay.
22	Q Is that your signature at the bottom?	22 Q How long have you been an employee at IBM?
23	A Yes.	23 A About 24 and a half years.
24	Q What Web site are you referring to?	24 Q Had there been any breaks in service during
25	A It's a Web site that explains this lawsuit,	25 that 24-and-a-half-year period? And by that I mean
	Page 11	Page 13
1	I guess.	1 have you left to go work somewhere else --
2	Q What is your understanding of what this	2 A No.
3	lawsuit is about?	3 Q -- and come back? Where did you start your
4	A That working prior to signing in, we're	4 employment for IBM?
5	supposed to be paid for.	5 A Burlington, Vermont.
6	Q Have you reviewed the lawsuit?	6 Q And currently you're in Atlanta, obviously?
7	A The actual wording? No.	7 A Yes, sir.
8	(Thereupon, marked for identification,	8 Q And which call center are you -- are you at
9	Defendant's Exhibit D2.)	9 a call center --
10	BY MR. RAY:	10 A Yes.
11	Q Mr. Starkey, I'm going to hand you what has	11 Q -- in Atlanta? Which one?
12	been marked as Exhibit 2, and I will represent to you	12 A Server support, Intel server support.
13	that that is the complaint that was filed in this	13 Q What is the -- do you know the physical
14	case, and I just want to ask you to take a look at it	14 address of the call center you're at?
15	and tell me if you have ever seen it?	15 A I believe it's 1500 Riveredge, if I recall
16	A I think this was on the link from the Web	16 correctly.
17	site as well, if I recall, and I have skimmed over it.	17 Q Is it referred to as the Riveredge
18	Q Do you still have a record of the link to	18 location?
19	that Web site? What the link is?	19 A I believe so.
20	A At home I do.	20 Q How long have you been at the Riveredge
21	Q How did you become aware of this lawsuit?	21 location?
22	A I believe somebody else sent me some	22 A I believe seven years.
23	information about it.	23 Q Any breaks in service during the seven --
24	Q Do you recall who?	24 that seven-year period?
25	A Somebody else that I work with, but I don't	25 A No, sir.

Witness: James Starkey

5 (Pages 14 to 17)

Page 14	Page 16
<p>1 Q What floor are you currently on?</p> <p>2 A Ninth.</p> <p>3 Q Have you been on the ninth floor during</p> <p>4 that seven-year period?</p> <p>5 A Yes. All of it. Oh, wait a minute. No.</p> <p>6 Actually when we started here, our office was in</p> <p>7 Kennesaw, Georgia.</p> <p>8 Q Can you spell Kennesaw for me?</p> <p>9 A K-E-N-E-S-A-W, I believe. It's about</p> <p>10 20 miles north of here.</p> <p>11 Q How long were you in Kennesaw, Georgia?</p> <p>12 A I would say about a year and a half, and</p> <p>13 then they moved down here.</p> <p>14 Q So have you been in the Riveredge facility</p> <p>15 for roughly five and a half years?</p> <p>16 A Uh-huh. I forgot about -- that we started</p> <p>17 there originally.</p> <p>18 Q Since you've been in the Riveredge facility</p> <p>19 have you always been on the ninth floor?</p> <p>20 A Yes, sir.</p> <p>21 Q Who is your current supervisor?</p> <p>22 A Steven Coy.</p> <p>23 Q And how long have you reported to Mr. Coy?</p> <p>24 A I believe about a year and a half, yes.</p> <p>25 Q Do you know who Mr. Coy reports to?</p>	<p>1 A Well, it's -- it's split up between here</p> <p>2 and Raleigh, North Carolina, but altogether I would</p> <p>3 say about 30 people.</p> <p>4 Q Do you know whether the test team directly</p> <p>5 reports to Mr. Lambousis?</p> <p>6 A At this time I'm not sure. They did as of</p> <p>7 a few months ago. I believe they still do.</p> <p>8 Q I want to go back to the distinction</p> <p>9 between Mr. Lambousis, who I think you said runs the</p> <p>10 place, and the personnel managers. Is Mr. Coy a</p> <p>11 personnel manager?</p> <p>12 A Yes, sir.</p> <p>13 Q So what is your understanding of Mr. Coy's</p> <p>14 responsibilities as a personnel manager?</p> <p>15 A Well, he does the appraisals of the</p> <p>16 personnel. He does the -- all the IBM stuff, like</p> <p>17 your -- what do you call it? Like your training</p> <p>18 plans, promotions, raises, that kind of thing. He</p> <p>19 doesn't -- he doesn't really have much to do with the</p> <p>20 technical day-to-day operation.</p> <p>21 Q What about, would Mr. Coy handle human</p> <p>22 resources functions? That's not a good question. Let</p> <p>23 me strike that. Would -- if you had a complaint about</p> <p>24 the way you were being treated -- for example, someone</p> <p>25 was being rude to you or someone said something</p>
Page 15	Page 17
<p>1 A I believe Vicki -- what the heck is her</p> <p>2 last name?</p> <p>3 Q Could it be Reidy?</p> <p>4 A Reidy, the second-level manager. He may</p> <p>5 also report to George Lambousis. I'm not sure.</p> <p>6 Q You don't know the relationship from a</p> <p>7 management level between Mr. Coy and Mr. Lambousis; is</p> <p>8 that correct?</p> <p>9 A Well, Mr. Lambousis runs the place, so he</p> <p>10 -- the other managers are just personnel managers.</p> <p>11 Q What do you mean by personnel managers?</p> <p>12 A Mr. Lambousis does not manage people. He,</p> <p>13 in my opinion, has problems with people and doesn't</p> <p>14 deal well with them, so they have other managers that</p> <p>15 deal with the personnel there and some of the vendors</p> <p>16 as well, and they take care of the day-to-day IBM</p> <p>17 paper work and stuff like that.</p> <p>18 Q And do you report to Mr. Lambousis?</p> <p>19 A I don't, no.</p> <p>20 Q Do any of the employees who are on the</p> <p>21 phones report to Mr. Lambousis, to your knowledge?</p> <p>22 A I believe what we call the test team does.</p> <p>23 Q What is the test team?</p> <p>24 A It's the next level of support up from me.</p> <p>25 Q Do you know how large that team is?</p>	<p>1 inappropriate -- would you go to Mr. Coy or</p> <p>2 Mr. Lambousis or someone else?</p> <p>3 A I -- you could go to Mr. Coy, certainly. I</p> <p>4 probably would not, just because I don't trust the</p> <p>5 man, but certainly he is in that chain of command.</p> <p>6 Q Is there an HR person that is over the</p> <p>7 group you work in or responsible for the group you</p> <p>8 work in?</p> <p>9 A I believe there's -- one of the other</p> <p>10 managers is very good with the HR type stuff, so they</p> <p>11 kind of call her the HR person, but, I mean, certainly</p> <p>12 Steve Coy has something to do with them.</p> <p>13 Q Who is the manager you're referring to?</p> <p>14 A Oh, gee. Of course you ask me, and I can't</p> <p>15 think of it.</p> <p>16 Q It's not Juanita Carver?</p> <p>17 A Juanita Carver. Sorry.</p> <p>18 MR. ZOURAS: Well, if you already know the</p> <p>19 answer, then why bother asking?</p> <p>20 MR. RAY: I didn't know. That was the only</p> <p>21 name that popped in my head.</p> <p>22 THE WITNESS: Well, her and Steve Coy are</p> <p>23 really the only two personnel managers up there</p> <p>24 on day shift at the Atlanta facility.</p> <p>25 BY MR. RAY:</p>

Witness: James Starkey

6 (Pages 18 to 21)

Page 18	Page 20
<p>1 Q I'll come back to Mr. Coy in a second, but 2 I want to understand your group and the size of your 3 group and what you do and those types of things. What 4 group are you in, or what business unit? Are you in 5 GTS?</p> <p>6 A I am not sure. There are so many names for 7 that kind of stuff. We've got more titles, but 8 basically, overall it's Intel server support is what 9 they call it.</p> <p>10 Q Is that the same thing as System X?</p> <p>11 A Yes. That's the newest version of Intel 12 servers, and I am part of a high-end group that is 13 within that.</p> <p>14 Q What is a high-end group? What do you mean 15 by that?</p> <p>16 A They're -- there's groups inside there that 17 are broken up specifically to handle different machine 18 types.</p> <p>19 Q And you handle high-end machines?</p> <p>20 A Correct.</p> <p>21 Q What is a high-end machine?</p> <p>22 A Blade centers. Blade centers.</p> <p>23 Q What is a blade center?</p> <p>24 A It's a type of high-end server. There's 25 just so many of them now that we have to -- not</p>	<p>1 floor?</p> <p>2 A No. No. I believe we're all on the ninth 3 floor.</p> <p>4 Q Is that the ninth floor of both buildings 5 there --</p> <p>6 A No.</p> <p>7 Q -- at Riveredge?</p> <p>8 A No. Just -- there's 1500 and 1600, and 9 this would be building 1500.</p> <p>10 Q Do you know roughly how many people are on 11 the Intel server support team?</p> <p>12 A I was told about a year ago, about 170.</p> <p>13 Q In Atlanta?</p> <p>14 A Correct.</p> <p>15 Q At Riveredge?</p> <p>16 A Correct. Between all shifts that are 17 there. That may have increased since then.</p> <p>18 Q Is it possible it's decreased, or do you 19 believe it's increased?</p> <p>20 A I would say if anything, it's increased.</p> <p>21 Q What shifts are there? Is it a 24/7 22 operation?</p> <p>23 A Yes.</p> <p>24 Q And I think you said on the day shift you 25 have Mr. Coy and Miss Carver?</p>
Page 19	Page 21
<p>1 specialize, but we're not responsible for all the 2 different servers that are in there.</p> <p>3 Q How long have you been in this high-end 4 group?</p> <p>5 A About five years.</p> <p>6 Q And during that five years have you been 7 part of the Intel server support team?</p> <p>8 A Yes.</p> <p>9 Q Do you know how many people report -- 10 roughly report to Mr. Coy?</p> <p>11 A I don't. I mean, I would say about half 12 the people in there are -- they're split up between 13 him and Juanita.</p> <p>14 Q Half the people in where?</p> <p>15 A In our ninth floor Intel server center. I 16 don't know numbers exactly, no.</p> <p>17 Q Does the Intel server center take up the 18 entire ninth floor?</p> <p>19 A Yes, sir.</p> <p>20 Q So there's no other groups or teams on the 21 ninth floor except the Intel server?</p> <p>22 A Yes. They're all server.</p> <p>23 Q Are they on any other floors? And by that, 24 are there people on the Intel server team, support 25 team, that are on other floors besides the ninth</p>	<p>1 A Correct.</p> <p>2 Q Do you know who the managers are on the 3 other shifts?</p> <p>4 A They're pretty much the 24 hours. There 5 are no night shift managers that are on the floor or 6 anything. They all leave by 5 or 6 o'clock.</p> <p>7 Q So there's no managers after 5 or 6 o'clock 8 on the ninth floor?</p> <p>9 A Correct. There aren't any there.</p> <p>10 Q You said -- when I asked you a question 11 earlier, you said Mr. Lambousis basically runs the 12 place?</p> <p>13 A Uh-huh.</p> <p>14 Q Is he -- when you say the place, are you 15 talking about Intel server support?</p> <p>16 A Yes, sir.</p> <p>17 Q Do you know if he has responsibility for 18 any other teams?</p> <p>19 A No, I don't believe he does. It's just 20 Intel server support.</p> <p>21 Q And when you say he runs the place, what 22 does -- what does that mean? What is he doing?</p> <p>23 A They call him the technical manager. He 24 would probably handle customer complaints on the 25 technical end. What else would he do? I don't know.</p>

Witness: James Starkey

7 (Pages 22 to 25)

Page 22	Page 24
<p>1 I don't really have much interaction with him. I 2 hardly ever see the guy, even though he's in an office 3 there on the ninth floor.</p> <p>4 Q You just answered my next two questions.</p> <p>5 A Okay.</p> <p>6 Q He's on the ninth floor?</p> <p>7 A Yes, sir.</p> <p>8 Q And your interaction with him is limited?</p> <p>9 A Very limited.</p> <p>10 Q Do you -- what is your interaction? Do you 11 recall any situations where you did interact with him?</p> <p>12 A Just when I was hired and passing in the 13 hallway.</p> <p>14 Q Do you know if your interaction or your 15 experience with Mr. Lambousis is similar to other 16 people in -- on that team?</p> <p>17 A Other people seem to interact with him more 18 on the, I would say nonwork-related items, like 19 Lambousis is a big football or baseball fan or 20 something like that, so they're always talking about 21 that kind of thing, but technically I'm not aware of 22 other relationships involving with that.</p> <p>23 Q I think you said about the -- that you have 24 been on the Intel server support team for about five 25 years and you've been part of the high-end group</p>	<p>1 Miss Carver?</p> <p>2 A Yes.</p> <p>3 Q Was that --</p> <p>4 A It was in -- it was like a break in there.</p> <p>5 It was Miss Carver then Ed Lewis and then back to her.</p> <p>6 Q So it went Carver, Lewis, Carver is what 7 you're saying?</p> <p>8 A Correct.</p> <p>9 Q It was sometime during that time you --</p> <p>10 A Yes.</p> <p>11 Q Can you describe for me just generally what 12 you do in your role on the high-end team?</p> <p>13 A Well, there's a couple aspects of it.</p> <p>14 Customers will call in with a -- a problem with their 15 server not acting right or whatever, and I help them 16 get it acting right if it's just a problem. If there 17 is a damaged or defective part, I either get that to 18 them, for them to replace it or dispatch a technician 19 to replace it, and I guess the other aspect would be, 20 I help our technicians in the field with any problems 21 they have in effecting a repair.</p> <p>22 Q So do you deal with incoming customer 23 calls?</p> <p>24 A Yes, sir.</p> <p>25 Q Are the customers internal or external?</p>
Page 23	Page 25
<p>1 during that time period -- during that five-year 2 window?</p> <p>3 A Well, I was part of the Intel server group 4 for, I would say, seven years, and once we moved from 5 Kennesaw down to here is when they started the three 6 different teams: 3000, 5000, and 7000.</p> <p>7 Q And you're 7000?</p> <p>8 A Yes, sir.</p> <p>9 Q And you've reported to Mr. Coy for roughly 10 a year and a half --</p> <p>11 A Correct.</p> <p>12 Q -- of that time? Who did you report to 13 immediately prior to Mr. Coy?</p> <p>14 A Juanita Carver.</p> <p>15 Q How long did you report to Miss Carver?</p> <p>16 A Probably about three years.</p> <p>17 Q And then who did you report to before Miss 18 Carver?</p> <p>19 A A George Pullon. P-U-L-L-O-N, I believe.</p> <p>20 He's no longer there.</p> <p>21 Q Did you possibly report to Ed Lewis at any 22 time?</p> <p>23 A Oh, I did, yes, for two months, three</p> <p>24 months. I forgot he was up there.</p> <p>25 Q Was that before you reported to</p>	<p>1 A Both. Both.</p> <p>2 Q When you are helping the technicians in the 3 field are you dealing primarily with incoming calls or 4 out -- making outgoing calls to the techs?</p> <p>5 A Oh, no. They're incoming. The Techs call 6 us.</p> <p>7 Q How are calls routed to you? Do you know?</p> <p>8 A The phone system is set up to dispatch them 9 to me, depending on the machine type.</p> <p>10 Q Do you know what the name of the phone 11 system is?</p> <p>12 A No, I don't.</p> <p>13 Q Have you heard the word Avaya? Does that 14 sound familiar?</p> <p>15 A No. I'm not familiar with it.</p> <p>16 Q What is your current shift?</p> <p>17 A Twelve noon to 9 p.m., Monday through 18 Friday.</p> <p>19 Q How long have you had that shift?</p> <p>20 A Pretty much the whole time I've been at the 21 facility here in Atlanta. There was a period of three 22 or four months where I was on a -- a more day shift, 23 like 9 a.m. to 5 p.m. or something like that.</p> <p>24 Q Do you recall when that time period was?</p> <p>25 When you were on the nine-to-five shift?</p>

Witness: James Starkey

8 (Pages 26 to 29)

Page 26	Page 28
1 A I would guess somewhere around March 2005 2 to July 2005. 3 Q Who were you reporting to at that time? 4 Was that Miss Carver? 5 A Ed Lewis. 6 Q Ed Lewis? 7 A Uh-huh. 8 Q Are you in a cubicle? 9 A Yes. 10 Q Do you have a laptop or a desktop? 11 A Desktop. 12 Q Have you always had a desktop while you've 13 been at the Riveredge facility? 14 A Yes, sir. 15 Q Where does Mr. Coy sit in relation to you 16 on the ninth floor? 17 A There's a -- if you think of the building 18 as -- if the top floor is square, which I guess it 19 really isn't, but there's an inner square area that 20 surrounds the bathrooms and the elevators, and there 21 are some offices inside that square, so he is in that 22 area away from the windows, around the corner from me. 23 Q Can you see him from your cube? 24 A No, unless he's walking by. 25 Q But you don't have a direct line of sight?	1 some number of my thing is off or something like that, 2 so I -- I don't know him. 3 Q What about -- I'm sorry. I didn't mean to 4 interrupt. 5 A Yes. Just, I don't know him, so I wouldn't 6 trust him to go to him with a personal matter. 7 Q What about Miss Carver? Do you have the 8 same relationship with her that you had with Mr. Coy? 9 A Her -- she was even worse. I did not like 10 working for her at all. 11 Q Why not? 12 A She -- well, actually one thing she did is 13 she lied about something I did. Made up a falsehood. 14 What else? Oh, she had me on this team that they 15 started up there -- I think it was her and Lambousis 16 that started it -- about if you have had too many sick 17 days or something like that, that they put you on this 18 list so that every time you are out, you have to have 19 this page filled out that is a IBM document by your 20 doctor and submit that or you got to put it down as a 21 vacation day. Very embarrassing and childish, I 22 think. 23 Q Is that still a practice -- process or 24 practice that -- 25 A Oh, yes. Oh, yes.
Page 27	Page 29
1 A No, sir. 2 Q And I think you said Mr. Coy and 3 Miss Carver typically leave at 5 or 6 o'clock -- 4 A Uh-huh. 5 Q -- roughly? Is that a yes? 6 A Yes. 7 Q Earlier, Mr. Starkey, you said that you 8 didn't trust Mr. Coy. 9 A I've never developed a relationship with 10 him. 11 Q Do you trust him? 12 A It would depend what that entails. 13 Certainly for business stuff, probably, yes. He would 14 be fine for that, but if it was a personal matter or 15 something, no. 16 Q Has he done something that has -- something 17 concrete that's led you to not trust him on personal 18 issues? 19 A Well, one -- one thing that bugs me about 20 him is he has no idea what we do. He strictly goes by 21 reports of numbers, and I find that not acceptable for 22 a manager, for one thing. Other than that, it's just 23 that he's never spoken to me on a personal level. I 24 have no -- no idea what kind of man he is or anything 25 other than I get yelled at once in a while because	1 Q You said that she lied about something you 2 did. What is that? 3 A Back in -- I'll say it's February of 2005. 4 I believe that's when it was. My wife got sick, and I 5 had to leave two nights during a week because of 6 problems with her, and at that time Ed Lewis was just 7 made my manager about a month before. 8 Ed at that point put me on first shift, 9 and he said it was because he was told by Juanita and 10 George that I had a problem with sick days and leaving 11 early and that I had been spoken to about it and like 12 that, had a meeting or whatever. And I -- that had 13 never happened, and I believe later on Ed found out 14 that he was lied to about this, and that's when he got 15 me back on my regular shift again. 16 Q Did you raise or escalate that situation to 17 anyone? Did you go talk to someone about the fact 18 that Miss Carver had, in your view, provided incorrect 19 information? 20 A Oh, I tried to. 21 Q Who did you raise it with? 22 A A program that's called -- at that time was 23 called Speak Up. 24 Q What is Speak Up? 25 A It's a -- basically, an anonymous way to

Witness: James Starkey

9 (Pages 30 to 33)

Page 30	Page 32
<p>1 document or talk about a problem with HR or something 2 like that. I mean, they know who you are, but they 3 will work on it without letting anyone else know what 4 your -- or who did -- who had the question or anything 5 like that.</p> <p>6 Q Did they tell you or come back to you with 7 a resolution of the situation?</p> <p>8 A No. There were two items that I mentioned 9 in that Speak Up, one of them being that the manager 10 had lied about what I did. And I'm trying to think. 11 I can't remember what the other issue was. All they 12 addressed was the other issue. They ignored my 13 comment about the lying going on by a manager and that 14 this was unacceptable and like I never wrote it at 15 all. It just was ignored.</p> <p>16 Q You don't recall what the other issue was?</p> <p>17 A No, I don't. I believe it was about 18 getting back onto my regular shift.</p> <p>19 Q And you were put back on your regular shift 20 ultimately?</p> <p>21 A Ultimately, but that was because of Ed 22 Lewis.</p> <p>23 Q Let's talk about Mr. Lewis. You've talked 24 about your views generally of Mr. Coy and Miss Carver. 25 What about Mr. Lewis?</p>	<p>1 something. He's from Africa, I believe. I couldn't 2 even guess how to pronounce his name. Oh, the guy 3 behind me is Jerry -- Jerry. I can't think of his 4 last name off the top of my head.</p> <p>5 Q Do -- the two people you've described, 6 Jerry and this other person, do they work the same 7 shift as you?</p> <p>8 A No. Actually, both of those people come in 9 at 3 p.m.</p> <p>10 Q Have you been in the same cube since you've 11 been at Riveredge?</p> <p>12 A No.</p> <p>13 Q How long have you been in your current 14 cube?</p> <p>15 A Probably three years.</p> <p>16 Q I'm going to -- or I will run through some 17 names with you, and I just want to see if you know who 18 they are.</p> <p>19 A Okay.</p> <p>20 Q And then I may have follow-up questions.</p> <p>21 Michael McDonald?</p> <p>22 A No.</p> <p>23 Q William Moore? Maybe Bill Moore?</p> <p>24 A That's a billing -- I don't think so.</p> <p>25 Q Greg Murphy?</p>
Page 31	Page 33
<p>1 A I felt he could be, you know, a very good 2 manager, had he stayed. We had -- of all the managers 3 there, we had more of a -- a personal discussions, 4 talking type of thing that none of the other managers 5 have encouraged.</p> <p>6 Q We talked a little bit about your job 7 duties, customer calls, both internal and external, 8 helping technicians when they're calling in. Do you 9 ever work anything called the queue?</p> <p>10 A Rarely.</p> <p>11 Q What is the queue?</p> <p>12 A The queue is the -- is the customers have 13 the ability to create one of our tickets or cases 14 on-line, and when they do that and submit it, it goes 15 to this queue, and there are specific people assigned 16 that check this queue all the time for these type of 17 calls and pull them out of the queue. The only time I 18 would be required to do this if I -- nobody's calling 19 in and it's dead time or if they're overwhelmed or one 20 of them is out sick or on vacation or something.</p> <p>21 Q We talked a little bit about your cube and 22 where you sit. Who sits immediately around you?</p> <p>23 A The guy behind me is -- great. Right out 24 the window. The guy in front of me, I can't even 25 pronounce his name. Apple -- some Indian name or</p>	<p>1 A No.</p> <p>2 Q Diana Olson?</p> <p>3 A No.</p> <p>4 Q Melissa Trikler?</p> <p>5 A That one rings a bell, but I don't know 6 what -- where I know her from.</p> <p>7 Q Jim Waters?</p> <p>8 A Jim Waters?</p> <p>9 Q Yes.</p> <p>10 A Here? Atlanta? He's a name -- he's a 11 manager I had many, many, many years ago in 12 Burlington.</p> <p>13 Q Do you know a Jim Waters in Atlanta?</p> <p>14 A Not that I recall here.</p> <p>15 Q Hiawatha Anthony?</p> <p>16 A No.</p> <p>17 Q Janelle Betterson?</p> <p>18 A No.</p> <p>19 Q Juanita Carver?</p> <p>20 A Oh, yes.</p> <p>21 Q Steve Coy, obviously?</p> <p>22 A Yes.</p> <p>23 Q Greg DuBose?</p> <p>24 A No.</p> <p>25 Q Denise Hines Anderson?</p>

Witness: James Starkey

10 (Pages 34 to 37)

		Page 34	Page 36
1	A	No.	1 today, what do you base that on?
2	Q	Eugene Howard?	2 A Because I'm not entitled to them when you
3	A	No.	3 are on the list, but yes, that's what the code was for
4	Q	Richard Howard?	4 today when I looked on the schedule.
5	A	No.	5 Q Do you know who put that code on the
6	Q	Kenneth Hunter? Or Ken Hunter?	6 schedule?
7	A	I think so.	7 A No.
8	Q	Do you know what he does for the company?	8 Q How long a lunch do you get?
9	A	I believe he's one of the -- what we call	9 A One hour.
10		the test team, the next level of support.	10 Q Is it scheduled, or can you take it when
11	Q	Is he on the ninth floor? Do you know?	11 you want it?
12	A	No. I think he's in Raleigh. If it's him,	12 A Scheduled.
13		he would be in Raleigh.	13 Q What about breaks? How many breaks?
14	Q	Robert Labory?	14 A Two 15-minute breaks, I believe you can
15	A	No.	15 take.
16	Q	And I think you said earlier you're not	16 Q Are they scheduled?
17		familiar with the term "GTS"?	17 A No. That you can -- unless -- you're not
18	A	No.	18 supposed to take them during peak times, but other
19	Q	You're not; is that correct?	19 than that, that's fine. I never put them down anyway.
20	A	No. Not for our facility. We have so many	20 Q When you say you don't put them down --
21		different names for it that --	21 A I never code out for them.
22	Q	Are you familiar with the term "IMBDP"?	22 Q Do you take them?
23	A	No. Never heard that one.	23 A Well, I -- I just consider -- once in a
24	Q	You're paid on an hourly basis?	24 while between calls there's certainly a few minutes
25	A	Yes.	25 where I'm -- before the next call. That's enough of a
		Page 35	Page 37
1	Q	Do you -- what is your vacation --	1 break. I can't see signing out for 15 minutes and
2		eligibility for vacation currently?	2 going in the break room or something. I just never do
3	A	Five weeks a year.	3 that.
4	Q	You also receive paid holidays?	4 Q Do you code out for lunch?
5	A	Yes. Twelve paid holidays a year.	5 A Yes.
6	Q	What about sick leave? Do you have a	6 Q You have a -- do you have an access badge
7		specific amount of sick leave?	7 to get into the floor?
8	A	Actually, no. I believe it's -- if you	8 A Yes.
9		were out six months, then it goes into some type of	9 Q Is the only place you have to use that
10		extended insurance plan, but certainly if you are out	10 badge to actually get into the ninth floor once you're
11		more than -- if someone else were out more than four	11 up there? Or do you have to use it in the lobby?
12		or five days, they get put on this list that I told	12 A It used to be in the lobby all the time,
13		you about.	13 but now it's -- after 7 p.m., I believe, from 7 p.m.
14	Q	Right.	14 until 7 a.m. you still have to use it in the lobby,
15	A	I'm already on it.	15 but other than that, no.
16	Q	Do you have a specific allocation for	16 Q And then whether you use it in the lobby or
17		personal days you can take?	17 not, once you get up to the ninth floor, you have to
18	A	No. That's the manager's discretion.	18 use it --
19		Those of us on this list are not entitled to it.	19 A Yes.
20	Q	Do you know if people who are not on the	20 Q -- to actually get in; is that right?
21		list are entitled to them?	21 A Always.
22	A	Oh, yes. Yes. They give them out all the	22 Q Do you know if you have access to any other
23		time. They were forced into today, I believe, giving	23 floors with that badge?
24		me a personal day.	24 A I'm told I do. I never tried it.
25	Q	When you say they were forced into it	25 Q So you've obviously been on the first

Witness: James Starkey

11 (Pages 38 to 41)

Page 38	Page 40
<p>1 floor?</p> <p>2 A Uh-huh.</p> <p>3 Q And the ninth floor; is that right?</p> <p>4 A Yes.</p> <p>5 Q But you've never been to any of the other floors of the facility?</p> <p>6 A Not on my own. I've been to the fourth floor one time for -- kind of to see what they do, and I don't know whether I was given access for that day or if I have permanent access. I've never tried to use it again.</p> <p>12 Q Do you know what is on the fourth floor?</p> <p>13 Do you know what operations are going on there?</p> <p>14 A Not really. I knew, for instance, three years ago or so, but I'm not positive what it is now.</p> <p>16 Q What was it three years ago?</p> <p>17 A The -- one of our higher-end server type teams, the -- the real IBM computers, S series, P series, was the same type of call center type things are done in that department.</p> <p>21 Q Do you know where that group is now?</p> <p>22 A I believe they're still there. I'm just not positive that that's what's there.</p> <p>24 Q What about the fourth -- or the fifth floor?</p>	<p>1 Q What is the average time it takes you to commute from your house to the facility?</p> <p>3 A Going in, about an hour.</p> <p>4 Q And I assume that can vary, depending on --</p> <p>5 A Exactly.</p> <p>6 Q -- whether there's an accident?</p> <p>7 A Oh, yes. Weather, accidents, all sorts of things.</p> <p>9 Q But the -- you would say the average time is about an hour?</p> <p>11 A About an hour.</p> <p>12 Q Do you car pool with anybody?</p> <p>13 A No, sir.</p> <p>14 Q So you arrive at the facility on a typical average day roughly at 11 a.m.?</p> <p>16 A Yes, sir.</p> <p>17 Q And your shift starts at noon?</p> <p>18 A Yes, sir.</p> <p>19 Q What do you do during that hour?</p> <p>20 A Generally sign onto my computer, read the paper, start reading e-mails that have come in, stuff like that.</p> <p>23 Q Ever search the Internet?</p> <p>24 A I guess so, yes.</p> <p>25 Q When you are -- if you look at the</p>
<p>1 A I don't know what's there.</p> <p>2 Q What about the third floor?</p> <p>3 A No. I don't know -- I think the seventh floor, we have at least some offices there, for rooms there for training, but other than that, I don't really know what's on most of the other floors. I could find out. I just never have been interested to know.</p> <p>9 Q Let's talk about what you do at the beginning of the day, and let's talk about your 12-to-nine shift. I know that there's a window in there back in 2005, when you had a different shift, but unless I --</p> <p>14 A Okay.</p> <p>15 Q -- identify that, let's just assume we're talking about 12 to nine, because that seems to be the majority of the time.</p> <p>18 A Okay.</p> <p>19 Q Fair enough? And I'm going to back up and start way back at the beginning of your day. First of all, how far do you live from the Riveredge facility?</p> <p>22 A Forty miles, the way I come in.</p> <p>23 Q So what time do you typically leave your house to go to the Riveredge facility?</p> <p>25 A About 10 a.m.</p>	<p>1 Internet, personal reasons or business reasons or both? And I'm still talking about this 11-to-noon window, before your shift starts.</p> <p>4 A I would be looking for both. For instance, if I read an article in the paper that had a link on it that it was something that interested me, I can look there. I mean, that's no rules against that. If it was something in an e-mail that had a -- for instance, a training link or a document, I certainly would look there too. Book mark it.</p> <p>11 Q When you say you sign on, what does that entail?</p> <p>13 A Well, turning on the computer. That automatically brings up a program called Sametime, and that's announcing to the floor, basically, that you are there, and at that time that's generally all I bring up. There's a couple other -- I have, you know, a set pattern of things that I bring up, and there's probably four other Web pages I bring up before that, work related, like my e-mail, and just some of the other pages I use.</p> <p>22 Q Do you do that -- obviously, you do that after you turn on the computer?</p> <p>24 A Yes, sir.</p> <p>25 Q Do you -- let's walk through what you</p>

Witness: James Starkey

12 (Pages 42 to 45)

Page 42	Page 44
<p>1 typically bring up before your shift starts, and then 2 I will come back and ask you about some timing. 3 A Okay. 4 Q You typically go into -- open your e-mail? 5 A Uh-huh, yes, sir. 6 Q What else? 7 A A couple of Web pages, like I say, 8 internal, that are work related, only because they're 9 part of my pattern to open those first so that they're 10 in the same place every time on the bottom of the 11 screen. 12 Q Anything else? 13 A No, not at that time. 14 Q And when you say that time, what do you 15 mean? 16 A When I first get there. 17 Q And then at some other point in time you 18 open other tools? 19 A Yes. 20 Q When do you start to open other tools? 21 A Generally about a quarter of 12. 22 Q And what other tools do you open starting 23 generally at a quarter till 12? 24 A There's a tool called PIMS for parts. NSS 25 for creating calls. The Lotus Notes application,</p>	<p>1 called GLOSSE. 2 Q GLOSSE? 3 A GLOSSE, G-L-O-S-S-E. That's another 4 information type site, internal, and what else? 5 Q When do you typically open the System X Web 6 site? 7 A That's one of the ones I open up when I 8 first get there. For instance, if I'm reading an 9 e-mail and I need to access something that's -- what 10 do I want to call it? -- internal and I would have to 11 put a password or something in, I've got that open so 12 I don't have to do that again. It's already open. 13 Q What about this GLOSSE? When do you open 14 it? 15 A When I first get there. 16 Q So when you first get there, you turn on 17 your computer. That brings up Sametime automatically? 18 A Uh-huh, yes, sir. 19 Q You open your e-mail? 20 A Uh-huh. 21 Q A couple of Web pages, one of those being 22 the System X Web site? 23 A Yes. 24 Q And then this GLOSSE and -- GLOSSE? 25 A Yes.</p>
Page 43	Page 45
<p>1 where I document very little but something about the 2 calls so that I'll have a record of them. What else? 3 The ICPM program, which is our main call documentation 4 program, and then another tool that -- I don't know 5 what it's called. It was created there. It's a macro 6 that does a bunch of things for us. I'm trying to 7 think. So that's pretty much it. I mean, all in all 8 there's probably 15 different applications open. 9 Q You went through PIMS -- 10 A Yes. 11 Q -- NSS; Lotus Notes, that Lotus Notes 12 application where you record things? 13 A Yes. That's -- Lotus Notes is where I -- 14 my e-mail is and stuff like that. 15 Q ICPM? 16 A Correct. 17 Q And then a macro? 18 A Correct. Those are the ones I open up 19 about a quarter to 12. 20 Q And then there are other tools you use -- 21 might use; correct? 22 A There's a System X Web page that we use a 23 lot. That's the same thing the customers would see, 24 and that's how we get to the information for each 25 server type. What's another one? Something new</p>	<p>1 Q Is that right? 2 A Yes. 3 Q And then at roughly 11:45 you open PIMS, 4 NSS, this Lotus Notes application where you record 5 things about the calls? 6 A That's ICPM. 7 Q Oh, is that ICPM? 8 A Yes. 9 Q So ICPM? 10 A Uh-huh. 11 Q And the macro? 12 A Right. 13 Q Anything else that you open before your 14 scheduled shift starts? 15 A Not that I can think of. I guess there are 16 others, depending on the day or if something in the 17 e-mail type of thing that I need to have open, per se, 18 something that just came up. Something called -- we 19 have there called retain tips, which come down almost 20 every day, about known issues. So if it was something 21 new to do with them, I would have those open in case a 22 call came in relating to them. 23 Q As -- so it sounds like there may be on a 24 given day -- let me back up. It sounds like kind of 25 the standard is what we walk through?</p>

Witness: James Starkey

13 (Pages 46 to 49)

Page 46	Page 48
<p>1 A Yes.</p> <p>2 Q And then there may be days where you might</p> <p>3 open something else?</p> <p>4 A Oh, yes.</p> <p>5 Q And then after your shift starts, there</p> <p>6 certainly are other tools you would open if you need</p> <p>7 them?</p> <p>8 A Correct.</p> <p>9 Q Let me -- I want to walk through these two</p> <p>10 pieces of time when you first arrive, and I want to</p> <p>11 get an understanding of how much time things take.</p> <p>12 A Okay.</p> <p>13 Q So to turn on your computer and it pops up</p> <p>14 and Sametime comes up, open your e-mail, open a couple</p> <p>15 of Web pages, including System X Web site, and open</p> <p>16 this GLOSSE, how long does that take on average?</p> <p>17 A Seven, eight minutes.</p> <p>18 Q How long does it take when you just turn on</p> <p>19 your computer before it boots up and pops up the</p> <p>20 Sametime?</p> <p>21 A Four minutes.</p> <p>22 Q And then the e-mail? To log into your</p> <p>23 e-mail?</p> <p>24 A A minute.</p> <p>25 Q And then the Web pages that you open, how</p>	<p>1 closer to your start time to log into everything? To</p> <p>2 turn on the computer, just do it all at once?</p> <p>3 A Just because it's become a habit, really.</p> <p>4 I get there so early because, like you said, you never</p> <p>5 know what the traffic is going to be or anything, and</p> <p>6 it's simply not accepted to be late. I'd rather get</p> <p>7 there way early than ever be late.</p> <p>8 Q Let's go through the timing, starting</p> <p>9 around 11:45. How long does it take? Do you -- let</p> <p>10 me back up. Do you typically do the same sequence?</p> <p>11 In other words, at the 11:45 time frame? Do you</p> <p>12 typically go into PIMS first, then NSS, then ICPM, and</p> <p>13 then the macro?</p> <p>14 A Yes, sir.</p> <p>15 Q So for PIMS how long does it take to log</p> <p>16 into that?</p> <p>17 A Two minutes.</p> <p>18 Q NSS?</p> <p>19 A Forty-five seconds.</p> <p>20 Q ICPM?</p> <p>21 A Ninety seconds.</p> <p>22 Q And then the macro?</p> <p>23 A Twenty seconds. That one is real fast.</p> <p>24 Q I show that total as roughly four and a</p> <p>25 half minutes to go into PIMS, NSS, ICPM, and the</p>
Page 47	Page 49
<p>1 long does that take?</p> <p>2 A Twenty seconds each.</p> <p>3 Q Do you open two, it sounds -- a couple,</p> <p>4 I --</p> <p>5 A Four. There's four that I normally have</p> <p>6 open.</p> <p>7 Q And then is GLOSSE a Web page?</p> <p>8 A Yes. It's an internal Web page.</p> <p>9 Q Is that one of the four that you open?</p> <p>10 A Yes.</p> <p>11 Q If you get in normally, on an average day,</p> <p>12 it sounds like you get in around noon?</p> <p>13 A About 11 a.m.</p> <p>14 Q I have an hour off. Around 11; correct?</p> <p>15 A Correct.</p> <p>16 Q Why sign in -- why not just sign into</p> <p>17 everything right when you get in, including PIMS, NSS,</p> <p>18 ICPM, and the macro?</p> <p>19 A I guess one of the reasons I don't is some</p> <p>20 of the applications time out after a certain period of</p> <p>21 time, so if I opened them up right away, they might</p> <p>22 time out before noon, and then I got to sign back onto</p> <p>23 them again.</p> <p>24 Q And then the counter to that question, the</p> <p>25 other side of that question is, why not wait until</p>	<p>1 macro?</p> <p>2 A About that. That sounds about right.</p> <p>3 Q When you first sign in -- I want to go back</p> <p>4 to roughly 11 o'clock.</p> <p>5 A Okay.</p> <p>6 Q You sign in, turn on the computer, the</p> <p>7 e-mail, the Web pages, the four Web pages. I think</p> <p>8 you said that you sometimes read the paper, sometimes</p> <p>9 read e-mails, and sometimes look at the Internet?</p> <p>10 A Correct.</p> <p>11 Q And I think you said on the Internet it</p> <p>12 could be both personal or business?</p> <p>13 A Correct.</p> <p>14 Q And then on the e-mails could that be both</p> <p>15 personal and business too?</p> <p>16 A No. That would be -- I would not open my</p> <p>17 personal e-mail from work.</p> <p>18 Q Well, you get personal e-mails to your IBM</p> <p>19 address; correct?</p> <p>20 A Very rarely. I don't give that address out</p> <p>21 to very many people.</p> <p>22 Q We will come back to that. So when you are</p> <p>23 reading e-mails, those generally would be business --</p> <p>24 A Yes.</p> <p>25 Q -- except for rare exceptions?</p>

Witness: James Starkey

14 (Pages 50 to 53)

Page 50	Page 52
<p>1 A Yes, sir.</p> <p>2 Q From the time you get there at roughly 11</p> <p>3 until 11:45, excluding the time you're actually</p> <p>4 signing on and logging on, as we've talked about, do</p> <p>5 you typically work on personal things, or do you</p> <p>6 typically work?</p> <p>7 A It's really a little bit of both, but it's</p> <p>8 -- like I say, I might open a Web page to read the</p> <p>9 local paper or see what's in the headlines type of</p> <p>10 thing.</p> <p>11 Q Have you ever talked to Lambousis or any of</p> <p>12 your managers, be it Coy, Carver, or Lewis, about your</p> <p>13 activities from 11 to 11:45? From what you're doing?</p> <p>14 A The only conversation I've had with them</p> <p>15 is, do not -- not to sign onto the phone system --</p> <p>16 that's our -- like our time recording -- until my</p> <p>17 actual start time.</p> <p>18 Q Do you know whether Lambousis, Coy, Lewis,</p> <p>19 or Carver know that during this 11-to-11:45 time frame</p> <p>20 you're actually performing some work functions?</p> <p>21 A I'm sure they do. They know I'm there.</p> <p>22 Q How would they know what you're doing? How</p> <p>23 would they know if you are looking at a personal Web</p> <p>24 site versus --</p> <p>25 A They would not. I -- I believe they have</p>	<p>1 we're not looking at inappropriate Web sites or</p> <p>2 whatever.</p> <p>3 Q You said you have had discussions about not</p> <p>4 signing onto the phone system.</p> <p>5 A Yes.</p> <p>6 Q Tell me about those discussions? First of</p> <p>7 all, who were they with?</p> <p>8 A Oh, back -- way back, to even George Pullon</p> <p>9 that -- when I first got there, let's say at 11, I</p> <p>10 would activate the phone system and say -- when I</p> <p>11 first got there, but I wouldn't sign into one of the</p> <p>12 codes that's saying I'm active, and I was told to stop</p> <p>13 doing that because it throws their numbers off. Don't</p> <p>14 sign in until I'm actually going to start taking</p> <p>15 calls.</p> <p>16 Q How do you sign into the phone system?</p> <p>17 A You have a -- a five-digit number that's</p> <p>18 like a code for you, and it brings up your -- the</p> <p>19 things you are qualified for, to answer calls on so</p> <p>20 that the right calls get to your phone.</p> <p>21 Q Right.</p> <p>22 A And you just sign in with that number, and</p> <p>23 that logs you into the phone.</p> <p>24 Q When you sign into the phone, do you -- and</p> <p>25 you're ready to take calls, do you have to actually</p>
Page 51	Page 53
<p>1 ways to see what's on my screen. I've been told they</p> <p>2 do, anyway, but they could simply stand behind me and</p> <p>3 I couldn't see them, unless I turned around. The</p> <p>4 normal way that people -- I'm right in front of the</p> <p>5 break room, so people go by all the time, but my</p> <p>6 screen is not turned so that someone just walking by</p> <p>7 would actually see what I've got on the screen.</p> <p>8 Q Do you know if any of your managers or</p> <p>9 Lambousis, for example, have ever stood behind you and</p> <p>10 watched what you're doing? And I'm talking about this</p> <p>11 11-to-11:45 time frame.</p> <p>12 A I know they have been back there on rare</p> <p>13 occasions talking to someone, not specifically to look</p> <p>14 at my machine, but they could obviously just look over</p> <p>15 and see what's on it.</p> <p>16 Q Do you know if they have?</p> <p>17 A I don't know.</p> <p>18 Q Do you know if they've ever -- you</p> <p>19 described a monitoring tool where they could check to</p> <p>20 see what's on your screen if they wanted to.</p> <p>21 A Correct.</p> <p>22 Q Do you know if they've ever used that from</p> <p>23 this 11-to-11:45 time frame?</p> <p>24 A I don't know. I just know it's -- it's a</p> <p>25 tool that's been put on there so that they can see</p>	<p>1 hit a button that says "available" on the phone?</p> <p>2 A Yes. Yes.</p> <p>3 Q So if you sign into the phone but don't hit</p> <p>4 that available button, does it knock you into some</p> <p>5 kind of AUX code?</p> <p>6 A Yes. It records the time as something</p> <p>7 else. It's not available time, so to speak.</p> <p>8 Q So when do you typically log into the phone</p> <p>9 system or activate the phone system?</p> <p>10 A At 12 noon.</p> <p>11 Q How long have you been following that</p> <p>12 practice?</p> <p>13 A Ever since I've been on that shift.</p> <p>14 Q Once you activate the phone system and then</p> <p>15 hit the available button, then you can receive calls</p> <p>16 through the phone system?</p> <p>17 A Correct.</p> <p>18 Q So I think you said going all the way back</p> <p>19 to Pullon, people had told you, don't log into the</p> <p>20 phone until the start of your shift?</p> <p>21 A Correct.</p> <p>22 Q Have you had those discussions with</p> <p>23 Mr. Coy?</p> <p>24 A Not that specific one. I know the rules,</p> <p>25 so I don't break them.</p>

Witness: James Starkey

15 (Pages 54 to 57)

Page 54	Page 56
<p>1 Q What about with Miss Carver?</p> <p>2 A I believe I had that conversation with her</p> <p>3 a couple times.</p> <p>4 Q What about Mr. Lewis?</p> <p>5 A No, I don't believe so.</p> <p>6 Q Do you know what -- under what</p> <p>7 circumstances you would have had that discussion with</p> <p>8 Miss Carver in light of the fact that you'd been -- it</p> <p>9 sounds like you follow this practice for the last five</p> <p>10 years?</p> <p>11 A I think I started doing it again. Someone</p> <p>12 else had told me that they were doing it because they</p> <p>13 wanted -- they wanted people to know when they were</p> <p>14 first there, so they started logging into an inactive</p> <p>15 code on phone, and I think I started doing that again,</p> <p>16 and after a couple weeks I was called in and told not</p> <p>17 to do that anymore. Go back to only logging in when</p> <p>18 my actual start time is.</p> <p>19 Q What -- I want to start with Mr. Coy. What</p> <p>20 has he told you about his expectation with respect to</p> <p>21 arriving on time? You've made a couple of comments</p> <p>22 that you don't want to be late.</p> <p>23 A Apparently some of his employees that he's</p> <p>24 responsible for, certainly last spring, occasionally</p> <p>25 came in late or something, and there were a whole</p>	<p>1 any of the management team? And by that I included</p> <p>2 Lambousis, even though you don't report to him, but</p> <p>3 Lambousis, Coy, Carver, or Lewis? About that</p> <p>4 particular procedure you just described?</p> <p>5 A I have not had a -- a one-to-one type</p> <p>6 conversation, no.</p> <p>7 Q Have -- have you had -- have you been at a</p> <p>8 meeting where it's been discussed?</p> <p>9 A Oh, yes.</p> <p>10 Q And what exactly is the discussion?</p> <p>11 A Just that there's been a problem with</p> <p>12 people coming in late, and the expectations are that</p> <p>13 you will be signed on your machine at your start time</p> <p>14 and ready to take calls.</p> <p>15 Q Can you be ready to take calls without</p> <p>16 logging into the computer tools?</p> <p>17 A You know -- oh, yeah. You could receive</p> <p>18 calls then.</p> <p>19 Q You could receive calls simply by logging</p> <p>20 into the phone and hitting available; right?</p> <p>21 A Exactly.</p> <p>22 Q Do you know if people do that? Do you know</p> <p>23 anyone who might do that?</p> <p>24 A Not that I am aware of. You would be</p> <p>25 making the customers wait while you start opening the</p>
Page 55	Page 57
<p>1 series of notes about not coming in late and</p> <p>2 conditions of employment, and stuff like that, rather</p> <p>3 nasty notes about being late, and then this doesn't</p> <p>4 mean you people who come in on time, and I don't like</p> <p>5 getting notes like that anyway. It's -- if it doesn't</p> <p>6 concern me, then don't yell at me.</p> <p>7 Q That's from Mr. Coy?</p> <p>8 A Yes.</p> <p>9 Q What does late mean?</p> <p>10 A Late would mean certainly after my noon</p> <p>11 start time or whomever -- whatever start time you're</p> <p>12 supposed to be there. Late would also be arriving too</p> <p>13 soon to your start time to be signed on and take calls</p> <p>14 immediately at your start time.</p> <p>15 Q So are you saying that late would also mean</p> <p>16 if you are not phone ready at your start time?</p> <p>17 A Correct.</p> <p>18 Q Who -- where do you get your understanding</p> <p>19 of -- of that definition of late?</p> <p>20 A It's in the letters that have been sent</p> <p>21 around and talking to people who have been late and</p> <p>22 what they've been told, and it's documented somewhere</p> <p>23 in our procedures that you will be signed on and ready</p> <p>24 to go before your start time.</p> <p>25 Q Has -- have you had any discussions with</p>	<p>1 screens, which would be certainly unacceptable.</p> <p>2 Q Well, do you typically when you log into</p> <p>3 the phone -- it sounds like you log in right about</p> <p>4 noon every day?</p> <p>5 A Correct, 12 noon.</p> <p>6 Q Do you typically immediately get a call?</p> <p>7 A Oh, absolutely.</p> <p>8 Q You're backed up?</p> <p>9 A Yes.</p> <p>10 Q Is it possible as an experienced rep, to</p> <p>11 handle calls without being in the computer tools?</p> <p>12 A No.</p> <p>13 Q In other words, is it possible -- let me</p> <p>14 ask it a different way. Is it possible for an</p> <p>15 experienced rep to log into the phone, start booting</p> <p>16 up the tools, take the call, talk to the customer,</p> <p>17 take notes, and not reveal that they're logging -- or</p> <p>18 booting up at the same time?</p> <p>19 MR. ZOURAS: I'm going to object to the</p> <p>20 extent this is asked and answered. You can</p> <p>21 answer it to the best that you can.</p> <p>22 THE WITNESS: It -- it wouldn't really be</p> <p>23 possible, because you have to first create a call</p> <p>24 into the system. That's the first thing that you</p> <p>25 absolutely have to do. You have to get the</p>

Witness: James Starkey

16 (Pages 58 to 61)

Page 58	Page 60
<p>1 machine -- type of the machine the customer's 2 calling in on. That's usually displayed on your 3 phone, but you have to get a phone number, which 4 brings up all the information that we know about 5 on that customer. Their address, basically. And 6 you have to create a call. For instance -- and 7 that's, you know, the first thing you have to do 8 just in case, for instance, you lost the customer 9 or something, so you would be able to get back to 10 them right away.</p> <p>11 BY MR. RAY:</p> <p>12 Q So the first thing you do is get 13 information -- when the phone rings, the first thing 14 you do is get information on the customer about their 15 phone number --</p> <p>16 A Yes, sir.</p> <p>17 Q -- the machine type, those types of things?</p> <p>18 A Yes, sir.</p> <p>19 Q And how do you create a call?</p> <p>20 A In the NSS application.</p> <p>21 Q What is the next step when you are on a 22 phone? After you create the call?</p> <p>23 A To open -- to transfer the call from NSS to 24 this ICPM tool.</p> <p>25 Q And what was the ICPM tool?</p>	<p>1 A During the call. During the case creation 2 part of the call.</p> <p>3 Q What is the purpose of having the 4 information moved over to the ICPM tool?</p> <p>5 A Well, the ICPM tool is more Windows based. 6 It's more modern. Not very, but easier to work with 7 than the NSS one, which is a very basic -- old, very 8 old program.</p> <p>9 Q So you move it over to the ICPM tool while 10 you're talking to the customer?</p> <p>11 A Correct.</p> <p>12 Q And then you deal with whatever the issue 13 is that the customer has?</p> <p>14 A Right.</p> <p>15 Q And do you -- so it sounds like with any 16 customer call, you're always going to use the NSS 17 application?</p> <p>18 A Pretty much, yes.</p> <p>19 Q And you're always going to use the ICPM 20 tool?</p> <p>21 A Absolutely.</p> <p>22 Q With -- with every -- or virtually every 23 customer call, will you also use PIMS?</p> <p>24 A Yes.</p> <p>25 Q And what is PIMS?</p>
Page 59	Page 61
<p>1 A That's basically our main documentation, of 2 what we discuss with the customer and what we did with 3 the call.</p> <p>4 Q So when the customer calls in, you need the 5 NSS application to create the call?</p> <p>6 A Correct.</p> <p>7 Q You fill out -- does the NSS application 8 have a form?</p> <p>9 A Yes. It takes you through steps, yes.</p> <p>10 Q So you've -- you go through the steps of 11 the NSS application. Are you only in the NSS 12 application during the actual live call, or do you go 13 into some other application while you're still talking 14 to the customer?</p> <p>15 A Oh, we certainly go into other 16 applications, depending on what his problem is.</p> <p>17 Q When you said transfer to the ICPM tool, is 18 that done after you're completed with the call with 19 the customer?</p> <p>20 A No. That's during.</p> <p>21 Q So you move the information from the NSS 22 application over to the ICPM tool?</p> <p>23 A Yes.</p> <p>24 Q Is that done at the end of the call or 25 during the call?</p>	<p>1 A It's a parts -- parts lookup type tool. 2 It'll tell us if we have the correct part numbers and 3 if they're available nearby to where the customer is.</p> <p>4 Q Are there customer calls where you don't 5 need to use PIMS?</p> <p>6 A Yes. Yes. There's a few.</p> <p>7 Q But just a few?</p> <p>8 A Yes. It's -- if they've got a problem 9 with -- a RAID array has gone down or something, it 10 doesn't require a part to fix it.</p> <p>11 Q And then we had talked about the Web pages. 12 Do you always use those Web pages on every call?</p> <p>13 A Oh, yes. Pretty much.</p> <p>14 Q How long are the typical customer calls? 15 Is there an average?</p> <p>16 A Their -- as I understand it, their 17 standard, from receiving the call to ending the call, 18 is 20 minutes.</p> <p>19 Q So these are fairly lengthy calls? Well, 20 let me back up. The standard for beginning and 21 ending, what is the beginning?</p> <p>22 A When you pick up the phone.</p> <p>23 Q And then the ending is when you hang up?</p> <p>24 A Correct.</p> <p>25 Q So the average call time is 20 minutes for</p>

Witness: James Starkey

17 (Pages 62 to 65)

Page 62	Page 64
<p>1 a call you're handling?</p> <p>2 A Well, actually it doesn't end when you hang</p> <p>3 up. It ends when you -- because you might get rid of</p> <p>4 the customer and then can finish filling out the forms</p> <p>5 to dispatch the call.</p> <p>6 Q Is there an average time, or do you know</p> <p>7 what the average time is for the time that you're</p> <p>8 actually on a call with a customer?</p> <p>9 A I don't know what that would be. They do.</p> <p>10 I don't know. They got more numbers they track than I</p> <p>11 can keep track of.</p> <p>12 Q Let me go back and just ask you again --</p> <p>13 you've been doing this for a while?</p> <p>14 A Uh-huh.</p> <p>15 Q Have you ever logged into the phone and hit</p> <p>16 the available button before you had logged into all</p> <p>17 the tools that you typically log into before your</p> <p>18 scheduled start time?</p> <p>19 A Not that I'm aware of.</p> <p>20 Q And you're not aware of anyone else who's</p> <p>21 ever done that?</p> <p>22 A I'm not aware of it, no.</p> <p>23 Q Do you get any type of report on when you</p> <p>24 log into the phone system?</p> <p>25 A Do I personally get it?</p>	<p>1 A Oh, yes. I've seen these.</p> <p>2 Q This particular e-mail is not dated. You</p> <p>3 said you have seen these. Have you seen more than one</p> <p>4 version of an e-mail like this?</p> <p>5 A Oh, yes. Probably at least once a year or</p> <p>6 so they send out something like that. George does.</p> <p>7 Q When you say they, were you referring to</p> <p>8 George Lambousis?</p> <p>9 A George or other managers.</p> <p>10 Q Which other managers have sent something</p> <p>11 like that? Exhibit 3?</p> <p>12 A Well, for instance, George would send</p> <p>13 something to the -- to the floor, everybody, and the</p> <p>14 other managers will only send them probably to the</p> <p>15 people they're responsible for. So if George sends</p> <p>16 something out, most of the times they're re-sent out</p> <p>17 to their team, so you get it twice.</p> <p>18 Q Well, this e-mail from -- it's from George,</p> <p>19 although it doesn't actually say it's coming from</p> <p>20 George Lambousis. It's just says George.</p> <p>21 A Well, I think the original e-mail had a --</p> <p>22 a little symbol after George that he uses in his</p> <p>23 signature.</p> <p>24 Q Do you have the original e-mail?</p> <p>25 A I can get it, yeah.</p>
Page 63	Page 65
<p>1 Q Yes.</p> <p>2 A I might be able to request it. I never</p> <p>3 have. It's not given to me automatically. I've seen</p> <p>4 a report about people who don't log in on time, so I</p> <p>5 know there is such a thing.</p> <p>6 Q If you are running late -- have you ever</p> <p>7 been late?</p> <p>8 A At this facility, once.</p> <p>9 Q When was that?</p> <p>10 A Six years ago.</p> <p>11 Q Other people have been late, obviously?</p> <p>12 A Oh, yes, sir.</p> <p>13 MR. RAY: Why don't we take a break and</p> <p>14 change the tape here.</p> <p>15 THE VIDEOGRAPHER: Off video.</p> <p>16 (Thereupon, a lunch recess was taken from</p> <p>17 12:50 p.m. until 1:14 p.m.)</p> <p>18 THE VIDEOGRAPHER: On video.</p> <p>19 (Thereupon, marked for identification,</p> <p>20 Defendant's Exhibit D3.)</p> <p>21 BY MR. RAY:</p> <p>22 Q Mr. Starkey, I'll hand you what has been</p> <p>23 marked as Exhibit 3, which is an e-mail that was</p> <p>24 produced in this litigation by the plaintiff. First</p> <p>25 I'll ask you if you recognize this document?</p>	<p>1 Q Do you have other e-mail -- you described</p> <p>2 other e-mails like this. Do you have other e-mails</p> <p>3 like this?</p> <p>4 A I have other e-mails from George. They may</p> <p>5 not be about this particular subject, but other</p> <p>6 subjects that he's sent out where he's somewhat</p> <p>7 entertaining in his bad spelling and English and stuff</p> <p>8 like that, that we kind of all chuckle behind his</p> <p>9 back, so we all keep them.</p> <p>10 Q You said that sometimes the managers would</p> <p>11 forward things that George had sent them?</p> <p>12 A Uh-huh.</p> <p>13 Q Is it regarding the topic of when you are</p> <p>14 supposed to be logged in or the expectation of being</p> <p>15 ready for your shift or to take --</p> <p>16 A Oh, absolutely.</p> <p>17 Q Do you have any copies of those e-mails?</p> <p>18 A I would have to look. I don't know off the</p> <p>19 top of my head.</p> <p>20 Q Do you keep -- do you have folders in your</p> <p>21 e-mail box?</p> <p>22 A Uh-huh.</p> <p>23 Q And do you have --</p> <p>24 A Yes.</p> <p>25 Q -- specific folders that those types of</p>

Witness: James Starkey

18 (Pages 66 to 69)

Page 66	Page 68
<p>1 e-mails would be in?</p> <p>2 A I would have to look. I'm sure I have some</p> <p>3 saved, like don't delete this or something like that.</p> <p>4 Q Let's look at this e-mail. First of all,</p> <p>5 on the to line here, your name is on it, and it's one,</p> <p>6 two, three, four, five -- it's about in the middle of</p> <p>7 the first page there on the left side. You see</p> <p>8 Starkey?</p> <p>9 A There I am.</p> <p>10 Q So you received this e-mail directly from</p> <p>11 Mr. Lambousis?</p> <p>12 A Yes, sir.</p> <p>13 Q Up at the top on the second page, Mr.</p> <p>14 Starkey, it says, "Forward," or, "FW, colon, note from</p> <p>15 manager back in 2005."</p> <p>16 Do you see that?</p> <p>17 A Uh-huh.</p> <p>18 Q Do you know who wrote that?</p> <p>19 A I'm not sure. I -- I would assume it's the</p> <p>20 subject line for whatever e-mail this was sent with.</p> <p>21 Q That's not attached?</p> <p>22 A Right. That's what I would assume.</p> <p>23 Q If you go down to the text, it starts --</p> <p>24 the subject on the particular e-mail on page 2 says,</p> <p>25 "Reminder."</p>	<p>1 2005?</p> <p>2 A Oh, no, sir.</p> <p>3 Q And the last sentence there, Mr. Starkey,</p> <p>4 says, "I am actively monitoring the policy for</p> <p>5 adherence and ask that you come forward to management</p> <p>6 quickly with any questions, comments, or concerns."</p> <p>7 Do you see that?</p> <p>8 A Uh-huh, yes.</p> <p>9 Q Did you ever go to management with any</p> <p>10 comments, questions, or concerns?</p> <p>11 A Oh, no.</p> <p>12 Q Why not?</p> <p>13 A First of all, it was pretty cut and dry.</p> <p>14 There was no need to go there. It's -- most of his</p> <p>15 notes -- this one doesn't say it, but always have the</p> <p>16 statement in it, this is a condition of employment.</p> <p>17 Q This one doesn't say --</p> <p>18 A This one doesn't. Usually that's his key</p> <p>19 word here: You will be fired if you do not adhere to</p> <p>20 this. This one doesn't say that, so I don't question</p> <p>21 George. I try to stay away from him.</p> <p>22 Q We talked a little bit about the other</p> <p>23 floors at the building.</p> <p>24 A Yes, sir.</p> <p>25 Q And certainly you reviewed and you received</p>
Page 67	Page 69
<p>1 A Yes, sir.</p> <p>2 Q And it says, "Team." Do you have an</p> <p>3 understanding of what the team is there?</p> <p>4 A In his interpretation it would be all of us</p> <p>5 other than the vendors.</p> <p>6 Q And when you say all of us, you're talking</p> <p>7 about the Intel support team?</p> <p>8 A Correct.</p> <p>9 Q And then he in the first sentence there</p> <p>10 says he's been hearing different interpretations, and</p> <p>11 then the second sentence is, "The expectation is that</p> <p>12 your workstation is powered up, you're logged onto the</p> <p>13 necessary applications, and you are in an available</p> <p>14 state on your phone at your start time."</p> <p>15 Did I read that right?</p> <p>16 A Yes, sir.</p> <p>17 Q And that's your understanding of the</p> <p>18 expectation of you?</p> <p>19 A Absolutely.</p> <p>20 Q Was -- assuming that this e-mail was sent</p> <p>21 in 2005 sometime, per the note at the top, was this a</p> <p>22 change in the expectation in 2005, or had that always</p> <p>23 been the expectation?</p> <p>24 A It's always been the expectation.</p> <p>25 Q And has that expectation changed since</p>	<p>1 this e-mail from Mr. Lambousis. Do you have any</p> <p>2 personal knowledge of what any other managers or</p> <p>3 groups expect with respect to arrival times, being</p> <p>4 logged into the tools, et cetera, before the scheduled</p> <p>5 shift or at the scheduled shift?</p> <p>6 A Here? No. I don't know about other</p> <p>7 floors. I know about other managers in IBM that I've</p> <p>8 had, but not here.</p> <p>9 Q Not in Atlanta --</p> <p>10 A No.</p> <p>11 Q -- is that correct?</p> <p>12 A Correct. I know people in other</p> <p>13 departments. I've just never had a -- any reason to</p> <p>14 ask.</p> <p>15 Q So you've never had a discussion -- well,</p> <p>16 let me back up. Have you had discussions in your</p> <p>17 group, the Intel server support? Am I saying that</p> <p>18 right?</p> <p>19 A Yes.</p> <p>20 Q The Intel server support group -- have you</p> <p>21 had discussions in the Intel server group about the</p> <p>22 expectation to be --</p> <p>23 A With co-workers? Yes. Yes, sir.</p> <p>24 Q What were the tone of those discussions?</p> <p>25 A Basically, to follow the rules and not make</p>

Witness: James Starkey

19 (Pages 70 to 73)

Page 70	Page 72
<p>1 him angry. He's not nice when he's angry. 2 Q Has he ever been angry with you? 3 A Not to my face. 4 Q Are you aware of him being angry with you 5 behind your back? 6 A Well, that other instance that I mentioned 7 before where he made up that story about me, obviously 8 he's not — I'm not one of his favorite people. 9 Q And I may be remembering this wrong, but I 10 know that you talked about Miss Carver making up a 11 story about you. 12 A It was both of them that Ed Lewis said told 13 him that. 14 Q So when you're talking about Mr. Lambousis 15 making up a story about you, it was about the issue of 16 your inability to be on time? 17 A Correct. 18 Q Has Mr. Lambousis ever communicated to you, 19 via e-mail or otherwise, about the availability of 20 overtime in your group? 21 A Yes. I'm sure I've gotten notes from him 22 about that, about we're behind or something like that, 23 and they're going to be asking for overtime. It was 24 more of -- more of an order than a request, but -- 25 Q And you have worked overtime --</p>	<p>1 Q Has that always been your understanding 2 while you've been in Atlanta? 3 A Yes, sir. 4 Q Do you also fill out a ILC? Claims 5 reporting? 6 A No. 7 Q Are you familiar with the business conduct 8 guidelines? 9 A Yes. 10 Q You have to confirm that you have reviewed 11 those each year? 12 A Each year. 13 Q Do you typically do that in January of each 14 year? 15 A Typically, yes. 16 MR. RAY: Do you have your copy from 17 yesterday, or do you want another copy? 18 MR. ZOURAS: Is it the same one? 19 MR. RAY: The same one. 20 MR. ZOURAS: No, I don't need one. 21 MR. RAY: Save the trees. 22 MR. ZOURAS: Right. 23 (Thereupon, marked for identification, 24 Defendant's Exhibit D4.) 25 BY MR. RAY:</p>
Page 71	Page 73
<p>1 A Yes, sir. 2 Q — in your department? To your knowledge, 3 have others in your group worked overtime? 4 A Yes, sir. 5 Q When you — you're familiar with the 6 eTOTALS system? 7 A No. No. 8 Q How -- when you work overtime, how is that 9 reported? 10 A Well, the phones of course would record it, 11 but I do have to fill out a time card every week, so 12 to speak. 13 Q Do you know if you fill out a time card -- 14 do you fill out your time card in a tool that's Web 15 based? 16 A Yes. 17 Q You don't know if that happens to be called 18 eTOTALS? 19 A Actually that's probably what it's called. 20 I never really paid attention, but that's probably 21 what it's called. 22 Q Is it your understanding that when you work 23 overtime, it's your responsibility to fill out that 24 time card and reflect the overtime? 25 A Oh, yes.</p>	<p>1 Q I'm going to hand you what's been marked as 2 Exhibit 4, Mr. Starkey. Just a second here. If you 3 could take a look at that, Mr. Starkey, and tell me if 4 you recognize it? 5 A Oh, I recognize it. I'm not sure it's -- 6 I'm not sure if it's IBM confidential or not. 7 Q Why do you say that? 8 A Well, I'm not sure -- I'm not sure if it's 9 IBM -- if it was IBM confidential, it should not be 10 out of the building. 11 Q That was produced by IBM in this 12 litigation. 13 A Okay. 14 Q When you -- we talked about the fact that 15 you certify that you have reviewed the business 16 conduct guidelines -- 17 A Yes, sir. 18 Q — each year. Do you read them each year? 19 A No. Only anything that is — I think they 20 document anything that has been changed, like they 21 highlight it or something. That is what we read every 22 year. 23 Q Can you take a look at section 3.1 of those 24 guidelines? 25 A Communication channels?</p>

Witness: James Starkey

20 (Pages 74 to 77)

Page 74	Page 76
<p>1 Q Yes. If you could take a second to review 2 that?</p> <p>3 A Uh-huh.</p> <p>4 Q Are you familiar with the fact that IBM has 5 mechanisms or channels in place for you to make 6 complaints?</p> <p>7 A Correct.</p> <p>8 Q And you've known that since you've been in 9 Atlanta?</p> <p>10 A Correct.</p> <p>11 Q And I believe earlier you talked about 12 using the confidentiality - Confidentially Speaking 13 program; right?</p> <p>14 A Open Door.</p> <p>15 Q Oh, did you use Open Door?</p> <p>16 A Yes. This Confidentially Speaking I 17 believe is a new version of that.</p> <p>18 Q So when we talked about the issue with 19 Miss Carver making up the story, as you said, you used 20 the Open Door approach?</p> <p>21 A Correct.</p> <p>22 Q Have you ever gone to anyone at HR to make 23 a complaint about anything?</p> <p>24 A No.</p> <p>25 Q If you could turn with me to section 3.6,</p>	<p>1 look through a booklet and take a little quiz?</p> <p>2 A I think you do.</p> <p>3 Q I'm going to show you a document here that 4 I'll ask you if you recognize it, so take your time 5 and -</p> <p>6 (Thereupon, marked for identification, 7 Defendant's Exhibit D5.)</p> <p>8 BY MR. RAY:</p> <p>9 Q I'm handing you what's been marked as 10 Exhibit 5.</p> <p>11 MR. RAY: I have an extra one if you want.</p> <p>12 MR. ZOURAS: All right. Are you attaching 13 these to the deposition?</p> <p>14 MR. RAY: Yes.</p> <p>15 THE WITNESS: Oh, I remember this.</p> <p>16 BY MR. RAY:</p> <p>17 Q Did you review this booklet?</p> <p>18 A It was -- it was not a booklet. It was 19 on-line.</p> <p>20 Q Did you review it on-line?</p> <p>21 A Yes, sir.</p> <p>22 Q Then I believe at the end there's actually 23 a quiz. Did you take the quiz?</p> <p>24 A Oh, yes.</p> <p>25 Q I assume you passed the quiz?</p>
Page 75	Page 77
<p>1 which I believe is on page 13.</p> <p>2 A All right.</p> <p>3 Q And if you could just read that first 4 sentence and then that first paragraph, and then I 5 will ask you a question.</p> <p>6 A Correct.</p> <p>7 Q And there in the -- in the second 8 paragraph, the third sentence says, "As another 9 example, employees who are required to record hours 10 worked, must record them accurately, and those 11 eligible for overtime must record all hours worked, 12 including all overtime hours, which must be management 13 approved in line with IBM guidelines."</p> <p>14 Did I read that right?</p> <p>15 A Correct.</p> <p>16 Q So it's your understanding under the 17 business conduct guidelines that it's your obligation 18 as an employee to report your time accurately, 19 including overtime?</p> <p>20 A Correct.</p> <p>21 Q Has that always been your understanding 22 since you've been in Atlanta?</p> <p>23 A Yes.</p> <p>24 Q When you certify that you have reviewed the 25 business conduct guidelines, do you actually take a -</p>	<p>1 A Yes, sir.</p> <p>2 Q We'll come back to that in a second. We 3 talked earlier, Mr. Starkey, about the fact that you 4 have had overtime?</p> <p>5 A Yes, sir.</p> <p>6 Q And I want to just walk through some 7 documents that reflect overtime and ask you a few 8 questions. I'm going to hand you what's been marked 9 as Exhibit 6.</p> <p>10 (Thereupon, marked for identification, 11 Defendant's Exhibit D6.)</p> <p>12 BY MR. RAY:</p> <p>13 Q My first question, Mr. Starkey, is the 14 first page of Exhibit 6 has a -- a summary of salary, 15 overtime, earnings in -- that looks like dated 16 June 19, '08. Have you ever seen a form like this?</p> <p>17 A No, I've never seen anything like this.</p> <p>18 Q If you could flip over with me to -- or 19 actually stay on the first page. For earnings year 20 2007 do you see that down at the bottom?</p> <p>21 A Yes.</p> <p>22 Q It says, "Salary, 49,524"?</p> <p>23 A Uh-huh.</p> <p>24 Q Is that, to your recollection, what your 25 salary was in 2007?</p>

Witness: James Starkey

21 (Pages 78 to 81)

Page 78	Page 80
<p>1 A I guess so. I don't know specifically.</p> <p>2 Q And then there's overtime there of \$922.94?</p> <p>3 Do you know if that's accurate for 2007?</p> <p>4 A I would assume so.</p> <p>5 Q Add comp of 5,289.99, do you know what that is for?</p> <p>6 A That's probably second shift premium.</p> <p>7 Q What is the second shift premium?</p> <p>8 A Oh, the amount?</p> <p>9 Q Yes.</p> <p>10 A Gee, I think it's ten percent.</p> <p>11 Q And then variable pay, what is variable pay?</p> <p>12 A That's kind of like a bonus pay that you get every March, I believe it is, based upon your previous year's appraisal and how the -- how the -- certain factors within the company do.</p> <p>13 Q And then the bonus, the next line, is that a different payment? Different type of bonus?</p> <p>14 A I'm not sure what that is.</p> <p>15 Q Could the bonus line be the bonus you were referring to?</p> <p>16 A No. This is -- I think in 2007, this was a -- like an award I got. I think that's what they're referring to. It's the only thing I can think of.</p>	<p>1 colon, 22."</p> <p>2 Do you see that?</p> <p>3 A Correct.</p> <p>4 Q I assume you don't remember sitting here today, whether you had overtime during the week of May 19 of 2006?</p> <p>5 A No.</p> <p>6 Q My question is, when you -- I think you said earlier, you would go in and change your time card if you had overtime; correct?</p> <p>7 A Correct.</p> <p>8 Q Do you typically when you do that, record your overtime to the minute? In other words --</p> <p>9 A Oh, yeah.</p> <p>10 Q Is the answer yes?</p> <p>11 A Yes. If it was -- like if I took a call at the end of the day and it went to, let's say, 11 minutes after, I'll put 11 minutes down.</p> <p>12 Q And have you ever had any overtime rejected that you entered into the system?</p> <p>13 A Not rejected. I've had it questioned, but not rejected.</p> <p>14 Q And what type of question?</p> <p>15 A What -- what was this for and making sure it's valid or something like that.</p>
Page 79	Page 81
<p>1 It's not on any other year.</p> <p>2 Q Do you know what that award was for?</p> <p>3 A Documentation.</p> <p>4 Q Solid documentation?</p> <p>5 A Solid documentation.</p> <p>6 Q Total earnings for 2007 show 59,237.79. Do you know if that's accurate?</p> <p>7 A I would assume so. I don't know.</p> <p>8 Q If you could turn with me to the sixth page of that document, and on the bottom right hand corner it has a 1373, if that helps.</p> <p>9 A Yes.</p> <p>10 Q And I'll represent to you that this information was taken off of what we referred to earlier as eTOTALS. My first question to you is, do you recognize this format?</p> <p>11 A Not particularly. I've never seen this type of thing before.</p> <p>12 Q It shows for the week, if you look at the second section down up in the upper left, it says, "For week ending date 2006, slash, five, slash 19."</p> <p>13 A Do you see that?</p> <p>14 Q Yes, sir.</p> <p>15 Q And then it says, "40 regular hours; overtime hours, eight, colon, 22; total hours, 48,</p>	<p>1 Q Do you recall specific instances of that?</p> <p>2 A No.</p> <p>3 Q Have you ever -- after being asked to explain what the entry was, has it ever been reversed?</p> <p>4 A That, no. I've been asked, for instance, not to do it again or something like that. For instance, sometimes when I get in, let's say a customer calls in and it's before my start shift but they can see that I'm there. I have accepted those calls before and been told not to do that.</p> <p>5 Q How would the call be routed to you if you had not logged into the phone?</p> <p>6 A It's routed to me this way by another agent who got the call, because I'm -- they can see me on Sametime, but I'm not active on the phone, so they say, customer so-and-so is calling back. I'm pretty much already logged in, so I just quickly finish that and talk to the customer, or I did.</p> <p>7 Q And they -- so how does the other agent tell you that there's a call for you?</p> <p>8 A Sametime.</p> <p>9 Q Through Sametime?</p> <p>10 A Yes.</p> <p>11 Q And then you on occasion accepted the call?</p> <p>12 A Yes.</p>